

**Illinois Department of Revenue
Regulations**

Title 86 Part 130 Section 130.2060 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products

**TITLE 86: REVENUE
PART 130
RETAILERS' OCCUPATION TAX**

Section 130.2060 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products

a) **Retailers' Occupation Tax on Retail Sales of Alcoholic Beverages**

Persons engaged in the business of selling alcoholic beverages to purchasers for use or consumption are required to remit Retailers' Occupation Tax to the Department upon their gross receipts from such sales, notwithstanding the fact that manufacturers and importing distributors of alcoholic beverages are required to pay certain taxes under the Liquor Control Act of 1934 [235 ILCS 5]. It is immaterial whether such alcoholic beverages are consumed on or off the premises where such alcoholic beverages are sold. In computing Retailers' Occupation Tax liability, no amount may be deducted from gross receipts from retail sales of alcoholic beverages to cover the taxes which have been paid by manufacturers or importing distributors of alcoholic beverages under the Liquor Control Act of 1934. Since the legal incidence of the Cook County Liquor Gallonage Tax is on the consumer, with the seller acting merely as a collector of the tax for the county, amounts collected because of the Cook County Liquor Tax are not considered to be a part of the liquor retailer's receipts that are subject to Retailers' Occupation Tax.

b) **Retail Sales of Motor Fuel**

Persons engaged in the business of selling motor fuel to purchasers for use or consumption are also required to remit Retailers' Occupation Tax to the Department upon their taxable receipts from such sales. In computing their Retailers' Occupation Tax liability, persons who sell motor fuel for use or consumption may deduct, from their gross receipts from such sales, the Illinois Motor Fuel Tax collected with respect to such sales, because the Illinois Motor Fuel Tax is on the consumer and is not considered to be a part of the "selling price" of the motor fuel. The rate of the Illinois Motor Fuel Tax is 19¢ per gallon. (Also, see 86 Ill. Adm. Code 500.)

c) In addition, the Cook County Motor Fuel Tax is imposed upon the consumer and is therefore also deductible from gross receipts. However, County Motor Fuel Taxes imposed under the County Motor Fuel Tax Law are includable in gross receipts subject to Retailers' Occupation Tax because such taxes are imposed upon retailers of motor fuel and not upon consumers.

d) **Retailers' Occupation Tax on Retail Sales of Cigarettes and Other Tobacco Products**

- 1) Persons engaged in the business of selling cigarettes, cigars and other tobacco products incur Retailers' Occupation Tax liability when selling such products to purchasers for use or consumption. In the case of cigarettes, the amount of the retail selling price represented by the State Cigarette Tax or Cigarette Use Tax should be included in the total selling price in arriving at the net taxable selling price. The rate of the Cigarette Tax and the Cigarette Use Tax is 29 mills per cigarette, or 58¢ per package on a package of 20 cigarettes.
 - 2) If a home rule jurisdiction, such as Chicago, imposes a cigarette tax, the amount of such local cigarette tax is subject to Retailers' Occupation Tax. If any local government, pursuant to authorization from the Illinois General Assembly to do so, should impose a cigarette tax in the nature of an occupation tax, the amount collected by retailers because of that kind of local cigarette tax is also subject to Retailers' Occupation Tax.
- e) Improper Collection of Tax

The retailer should not collect tax on amounts as to which he is acting merely as a tax collector, such as the Cook County Liquor Gallonage Tax and the Illinois Motor Fuel Tax. If the retailer does erroneously collect tax on any such amounts, he must refund the erroneously collected tax to the purchaser or else remit such erroneously collected tax to the Department. He may not retain it. Also, if the retailer knowingly collects tax from customers on receipts which are not subject to Retailers' Occupation Tax, he can be subject to prosecution for a criminal violation.

(Source: Amended at 24 Ill. Reg. 15104, effective October 2, 2000)